

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

WP(C).No. 20339 of 2007(U)

PETITIONERS:

1. BOVAS LASSER, S/O. K.P.LASSER,
AGED 42, KEEPANASSERIL HOUSE, THRIKKALATHOOR KARA,
MULAVOOR VILLAGE.

2. K.P.LASSER, S/O. PAULOSE, AGED 70,
KEEPANASSERIL HOUSE, THRIKKALATHOOR KARA,
MULAVOOR VILLAGE.

BY ADV. SRI.THAMPAN THOMAS
SMT.V.O.PHILOMINA

RESPONDENTS:

1. THE KERALA STATE FINANCIAL CORPORATION,
REP. BY ITS MANAGING DIRECTOR, HEAD OFFICE,
VELLAYAMBALAM, THIRUVANANTHAPURAM.

2. THE BRANCH MANAGER,
KERALA FINANCIAL CORPORATION, THODUPUZHA.

3. THE DEPUTY TAHSILDAR (R.R.),
KERALA FINANCIAL CORPORATION, ERNAKULAM.

ADDL.R 4. STATE OF KERALA REP. BY
THE CHIEF SECRETARY, SECRETARIATE,
TRIVANDRUM.

ADDL.R4 IS IMPEADED AS PER ORDER DTD 17.7.2007
IN IA.NO.9595/2007.

BY ADV. SRI.V.B.UNNIRAJ, SC, KFC
SMT.R.S.GEETHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
03/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.20339/2007

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 COPY OF THE LETTER DTD 17..3.07 DEMANDING AN AMOUNT OF RS.33.02 LAKHS.

EXT.P2 COPY OF THE RECEIPT OF PAYMENT OF RS.28,89,747/= DTD 25.6.07.

EXT.P2(a) COPY OF THE ADVANCE PAYMENT FOR ONE TIME SETTLEMENT OF AN AMOUNT OF RS.4,22,000/=

EXT.P3 COPY OF THE REPRESENTATION DTD 29.6.07.

EXT.P4 COPY OF THE DEMAND OF RR CHARGES DATED 29.6.07.

/TRUE COPY/

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ANTONY DOMINIC,J.

W.P.(C).NO.20339 OF 2007-U

Dated this the 3rd day October, 2007.

JUDGMENT

The prayer in this writ petition is to quash Ext.P4 communication issued by the 1st respondent. By the impugned order request of the petitioners for return of their documents has been turned down by the respondents for the reason that the petitioners should remit the revenue recovery charges.

2. It is submitted that the petitioners were defaulters to the 1st respondent and that their request for one time settlement was accepted by Ext.P1. Following that, the petitioners made remittances and Ext.P2 series are the receipts issued acknowledging the same. Thereafter, the petitioners made Ext.P3 representation requesting for return of the documents and this has been rejected by Ext.P4 as stated above.

3. This is a case where after initiating revenue recovery proceedings, the matter has been settled between the parties under one time settlement. On that basis, entire amount has been paid to

the 1st respondent. Therefore, recovery was not in pursuance to the revenue recovery action initiated at the instance of the Corporation. Since recovery was not in pursuance to the revenue recovery action, there is no question of realisation of collection charges. It has been so held by this Court in **Bhaskaran v. Sub Registrar** (2005 (3) KLT 150). Therefore, I do not see any justification for insisting on the no objection from the revenue authorities for releasing the documents of title mortgaged by the petitioner.

Therefore, there will be a direction to the respondents to release the documents of the petitioners in relation to the loan availed by them which has been settled as per Exts.P1 and P2.

ANTONY DOMINIC, JUDGE.

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